

LCB File No. R097-05

PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

(This proposed regulation was previously adopted as T056-05)

Petition 2005-01

Explanation: Matter in bold italics is new; matter in brackets [omitted material] is material to be omitted.

AUTHORITY: NRS 519A

NAC 519A.050 "Minor modification" defined. "Minor modification" means:

[1. An increase in the acreage affected by an active exploration project or active mining operation if:]

1. A change involving more than 10 acres but less than 25% of the acreage included in the approved plan if:

(a) The types of disturbances are included in the approved plan; or

[(b) The affected land can be reclaimed in a manner which is substantially similar to the manner of reclamation included in the approved plan.]

(b) The change (including but not limited to a change to the post mining land use) does not require reclamation techniques significantly different than in the approved plan.

[2. Changes in the specific techniques for reclamation, including, but not limited to the equipment which is used and the mixes of seeds.]

2. Changes in the equipment used for reclamation.

3. Changes to the final contours.

[4. Changes to the schedule for completing reclamation necessitated by changes in:

—(a) The mining operation or exploration project; or

—(b) Changes to the approved plan for reclamation.]

NAC 519A.052 "Major modification" defined. "Major modification" means:

1. A change in the post-mining land use that requires reclamation techniques significantly different than the techniques in the approved plan;

2. The addition of a type of disturbance not previously included in the approved plan and which cannot be reclaimed in a manner that is substantially similar to the reclamation techniques included in the approved plan;

3. The proposed disturbance is equal to 25% or more of the acreage in the approved plan; or

4. A change in the visual appearance of the reclaimed areas, which is substantially different than the visual appearance, which was discussed or commented upon during the public comment period.

NAC 519A.227 Fee for modification to permit. (NRS 519A.160)

1. The fee for a minor modification to a permit for an exploration project or a permit for a mining operation is [one-half the amount of the applicable annual fee for the permit.] \$500, plus

\$20 per acre or part of an acre, not to exceed one-half of the annual fee pursuant to NAC 519A.230 and 519A.235.

2. The fee for a major modification to a permit for an exploration project or a permit for a mining operation is equal to the amount of the applicable annual fee ~~[for the permit.]~~ *pursuant to NAC 519A.230 and 519A.235.*

~~[3. For the purpose of this section, the following are not modifications:~~

~~—(a) An increase or decrease in the amount of surety necessary to cover the cost of reclamation as determined by the 3-year periodic review of the amount of surety required by NAC 519A.380; or~~

~~—(b) Changes to the proposed seed mix for reclamation.]~~

3. *For a modification that does not constitute a major modification or a minor modification and involves disturbance of ten acres or less, transfer of the permit, or a change to the schedule for completion of reclamation, the fee is the lesser of \$250 or one-half of the annual fee pursuant to NAC 519A.230 and 519A.235.*

4. *Fees paid pursuant to this section are nonrefundable.*

NAC 519A.305 Requirements for notice and public comment before modifying plan for reclamation.

1. The division shall, at least 30 days before making a major modification to a plan for reclamation of a mining operation:

(a) Circulate a public notice of the intent to modify the plan in a manner intended to inform interested persons;

(b) Cause to be published in a newspaper of general circulation within the geographic area of an exploration project or mining operation, a notice of the intent to modify the plan; and

(c) Mail to the operator, the landowner, members of the board of county commissioners of the county in which the project or operation is located, the division of minerals and any other person who so requests, written notice of the intent to modify the plan.

2. Notice given pursuant to subsection 1 must include:

(a) The name, address and telephone number of the division;

(b) The name and address of the operator;

(c) The location of the project or operation;

(d) A description of the procedure which the division will use to make a final decision to modify a plan;

(e) The specific location where interested persons may obtain further information or inspect and copy relevant forms and documents; and

(f) A statement that interested persons must submit to the division written comments on the tentative decision of the division within 30 days after the date on which the notice is published.

3. The division:

(a) Shall allow written comments and information and a public hearing as provided in NAC 519A.185 to 519A.210, inclusive, before making a major modification to a plan for reclamation.

(b) Is not required to allow written comments and a public hearing as provided in NAC 519A.185 to 519A.210, inclusive, before making a minor modification to a plan for reclamation.

~~[4. As used in this section, "major modification" includes only:~~

~~—(a) A change in the post-mining land use that requires reclamation techniques which are significantly different from the techniques in the approved plan;~~

- ~~—(b) The addition of a type of disturbance not previously included in the approved plan and which cannot be reclaimed in a manner which is substantially similar to the reclamation techniques included in the approved plan;~~
- ~~—(c) Other modifications to the approved reclamation activities which significantly increase the amount of surety required and are not a minor modification; or~~
- ~~—(d) A change in the visual appearance of the reclaimed areas which is substantially different than the visual appearance which was discussed or commented upon during the public comment period.]~~

Revised Regulatory Language, incorporating proposed revisions

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 - (a) The types of disturbances are included in the approved plan; or
 - (b) The change (including but not limited to a change to the post mining land use) does not require reclamation techniques significantly different than in the approved plan.
2. Changes in the equipment used for reclamation.
3. Changes to the final contours.

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1. A change in the post-mining land use that requires reclamation techniques significantly different than the techniques in the approved plan;
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3. The proposed disturbance is equal to 25% or more of the acreage in the approved plan; or
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1. The fee for a minor modification to a permit for an exploration project or a permit for a mining operation is \$500, plus \$20 per acre or part of an acre, not to exceed one-half of the annual fee pursuant to NAC 519A.230 and 519A.235.
2. The fee for a major modification to a permit for an exploration project or a permit for a mining operation is equal to the amount of the applicable annual fee pursuant to NAC 519A.230 and 519A.235.
3. For a modification that does not constitute a major modification or a minor modification and involves disturbance of ten acres or less, transfer of the permit, or a change to the schedule for completion of reclamation, the fee is the lesser of \$250 or one-half of the annual fee pursuant to NAC 519A.230 and 519A.235.
4. Fees paid pursuant to this section are nonrefundable.

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(b) Cause to be published in a newspaper of general circulation within the geographic area of an exploration project or mining operation, a notice of the intent to modify the plan; and

(c) Mail to the operator, the landowner, members of the board of county commissioners of the county in which the project or operation is located, the division of minerals and any other person who so requests, written notice of the intent to modify the plan.

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(d) A description of the procedure which the division will use to make a final decision to modify a plan;

(e) The specific location where interested persons may obtain further information or inspect and copy relevant forms and documents; and

(f) A statement that interested persons must submit to the division written comments on the tentative decision of the division within 30 days after the date on which the notice is published.

3. The division:

(a) Shall allow written comments and information and a public hearing as provided in NAC 519A.185 to 519A.210, inclusive, before making a major modification to a plan for reclamation.

(b) Is not required to allow written comments and a public hearing as provided in NAC 519A.185 to 519A.210, inclusive, before making a minor modification to a plan for reclamation.